

Tennessee Farmland Legacy Conference
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Farm Family Business Ownership Succession
“You Can Buy the Family Farm But Remember I Still Own It”

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When transferring the actual ownership of a family farming operation to the next generation (i.e. especially if the farm has been in the family name for several generations), the entire succession process itself can result in a lot of emotional stress among the family members involved.

There are **many issues** which confront family members in working through this transition in a reasonable and expedient manner without disturbing the daily operation of the farm business. **These succession issues must eventually be discussed by all the family members involved and resolved to everyone’s agreement to allow for a successful transition of ownership to the next generation.**

The Role of the Father Issue

Remember that Dad is wearing two hats in the family farm operation (**i.e. Boss Hat and Dad Hat**). When wearing the Boss Hat, Dad is in charge (authoritative power) and supervises the adult children as employees in the farming operation. When wearing the Dad Hat, now the father is understanding and takes time to listen to the concerns of the children. Dad is more relaxed and willing to spend time visiting about family matters (i.e. birthday party next week for Mom).

This presents a difficult situation for any father since he must know when to be wearing which hat. **Dad may even have to change hats several times during the same day.**

The adult children working on the family farm must make this distinction between the Boss and Dad roles that the father plays in the farm business. When things go wrong on the farm or someone makes a big mistake (i.e. major screw up), the father will become upset and even get angry. He is wearing the Boss Hat. He stills loves his adult children (Dad Hat), but is disappointed with their work performance in the farming operation. Dad needs to **correct mistakes in a positive manner** that builds confidence and self-esteem in these adult children.

Dad must be certain to compliment that adult child by giving praise when they do a good job. If Dad only criticizes and points out only the mistakes (never mentioning the accomplishments), a negative working environment soon develops between Dad and these adult children.

This issue can actually lead to more serious problems in the family. Too many times an adult child will go back to the family farm to begin their start in farming (i.e. after graduating from college or working at another job). **Dad has to be careful to treat this farming son or farming daughter as an adult person capable of making decisions and providing their own ideas.**

If Dad wears only his Boss Hat (i.e. my way or else), this adult child may feel that they are only hired help with no opportunity for any management input. This can quickly damage the effective working relationship between Dad and the adult children. With no chance for input and not being recognized for their contributions and efforts, these adult children soon lose interest in the farm itself and have little motivation to be successful in the farm business operation.

“What if Mom Out Lives Dad and Takes Over the Family Farm”

What if Dad dies unexpectedly or before his retirement from the farming operation and Mom inherits the entire farming operation? What happens next? Mom now has total control over the entire farm business operation. Does Mom operate and manage the farming operation in the exact same manner as before Dad's death (i.e. nothing changes on the farm)? Or would Mom start making some of the changes she wanted to in the farming operation but Dad would never agree to? For example, there may have been some old buildings on the farmstead that were in total disrepair and no longer being used. The buildings were nothing but an “eye sore” and Mom always wanted the buildings taken down and burned. But those buildings were part of the original farmstead that Dad's great grandfather built himself. Consequently Dad would never listen to a word about those buildings being taken down. I can assure you that if something happens to Dad and Mom takes over, those buildings will soon disappear from the farmstead.

Much depends on how actively Mom was involved in the farm business operation before Dad's death. If Mom was in charge of keeping the farm record accounts and paying the farm expenses, she will probably be very comfortable in continuing her management role. This is especially true if Mom was involved in the physical work on the farming operation and very much involved with working with the farm lenders in the financial management of the farming operation.

If Mom had a full time job off the farm and was not involved very much in the day to day activities of the farming operation, then the entire situation could be totally different. If there was a farming son or farming daughter (possibly a farming son-in-law) already on the farm, would Mom now be willing to turn full control of the farming operation over to them even though Mom now owns the largest share of the farm's assets. Could this farming son or farming daughter have complete freedom to operate the farm? Could they make their own decisions and initiate changes with little or no supervision by her? This might depend on how well Mom trusted their judgment and maturity to make these farming decisions.

Most importantly, a lot now depends on how well this farming son or farming daughter is able to communicate effectively with Mom and keep her informed on what is being done. The key point may be does this farming son or farming daughter have Mom's complete trust and confidence to take over the management of the farming operation now that Dad has passed on.

If none of the farm children returned back home to the family farm before Dad's death or if none of the children have an interest in taking over the farm even though Dad has now passed away, Mom finds herself all alone on the farm with Dad gone. If Mom is not able to take over the work requirements of the farm for whatever reasons (i.e. physically not able, already has a job in town or her own career, never wanted to move to farm to begin with, etc.), would Mom just rent out the entire farm to a neighbor or relative but continue living on the farmstead? Or would Mom in this type of situation soon sell the farm and move into the local town? Possibly Mom might even move away to another state to be closer to a sister or to live near her grandchildren. **These are all decisions that Mom must contend with as she deals with the responsibility of taking over the farm upon Dad's death.**

This situation can get quite interesting for the entire farm family if **Mom remarries** a short time after Dad's death. What if Mom would marry a farm neighbor just down the road who lost his wife a short time ago? Might he just take over farming this land for Mom - - his new wife? Now what happens to the farming son or farming daughter (or farming son-in-law) if Mom would marry another farmer who is still actively farming himself? Would they still have the same chance to take over the family farm even though there is now a step-Dad to deal with? And what if this new step-Dad takes over for Mom and starts making all the management decisions for Mom? Worse yet, what if Mom starts listening or does what her new husband wants rather than her own children.

If Mom remarries another man that is not involved in farming and has no interest in the farm that Mom now owns, then things probably stand a good chance of working out for the farming son or farming daughter involved.

If Mom owned the family farm to begin with (i.e. this is the farm that she inherited from her parents and the farm deed was always in Mom's name alone) and Dad basically farmed her land, then Dad's death would not change anything. In this situation, very few changes can be expected to take place with Dad's death since Mom owned the land and was probably pretty much in charge and control of the farming operation all along. Even if Mom remarries, she will still remain in control since the ownership of the farm was always in her name on the deed.

The unexpected death of either parent (Mom or Dad) can raise a lot of unanswered questions and even concerns among the children (both the farming children and the non-farming children). It may even jeopardize the successful transfer and succession of ownership for the family farm to this next generation (i.e. the children who want to farm). **The real issue here is whether Mom and Dad have discussed any of this with each other.** Did they ever share their personal wishes with the other spouse in case of their unexpected death? **Or was it just assumed that everything would remain the same or things would eventually be taken care in the exact manner that the deceased parent would have always wanted.**

Has anything ever been put in writing? Has the parents' will and estate plan been updated and amended to satisfy their wishes? Has a farming operation business agreement been put in place with the farming children? Has the farming son or farming daughter been given an option for the "first right of purchase" if the farmland and/or the farmstead would ever be sold for any reason. Without discussing these very issues and then putting it in writing (i.e. legal documents with a lawyer) in case of an unexpected parent's death (especially if one of the parents dies very early or long before retirement), the succession of farm family ownership to the next generation stands little chance for success in these types of situations.

The Issue of "Who is Family"

Who are considered the "real family members" in the farm family business? Are only the "blood related" family members the ones that are to be included in financial or business decisions, have management authority, or even the chance for farm ownership?

Are the in-laws considered or even treated as "family" in the business? Do the in-laws involved in the family farming operation actually have a voice in business matters or even allowed to make their own management decisions? Or are the in-laws kept in the dark about the farm operation itself and even excluded from any business decisions being made by other family members.

Relationships of trust between family members fail when someone finds out that decisions are being made by others that impacts their well being and future happiness, but they are not allowed to be a part of that decision. This can lead to **suspicious and a lack of trust** for others.

For example, the Dad and son make the decision to buy another farm and put the present farming operation farther into debt. This means more work (longer hours) for both of them and more financial stress in meeting these added debt repayments. Yet the daughter-in-law was not included in this final decision. Sometimes she finds out after the new farm has already been purchased and now she is told to just sign the mortgage loan papers (and not ask any questions). Her family happiness has been impacted (husband has less time for her/the children and he will be more easily upset when things go wrong due to the added work load and financial stress). She wants to be more involved in the farm's business decisions with the opportunity to express her feelings, but is never given this chance. The daughter-in-law feels isolated in the family and excluded from this family farming operation even though she may be living right on the farmstead itself.

The Issue of Controlling Parents

Some parents actually raise their children to be followers. Children are often expected to do what the parents always want. "Work hard, do exactly what you are told, but don't ask any questions" is often the standard rule in many families. Now parents cannot understand why their adult children have no drive or ambition. Why they lack being creative or having new ideas. These adult children may even lack personal goals or having direction in their lives.

What is the **behavior expected** by the parents for the adult children working in the farming business. Do the parents want these children to be just puppets or independent thinking adults with their own ideas? Is it the parents' dream for the children to return back home to the family farm or is it the children's dream to farm with Mom and Dad? Or is it everyone's dream together as a family. **Children should never feel obligated to remain in the farm business when their career interests or dreams lie elsewhere.**

Another side of this issue is that parents want to help their adult children to have a better living standard (i.e. help them buy their first home or a new car or the chance for a needed vacation). But often this is done with **"strings attached."** Mom and Dad often expect something in return for the favor or gift that they have provided to their adult children.

For example, the parents give a cash gift for the down payment on a new car that their adult children may really need. But the parents expect them to buy the type of car that they would actually purchase. When the children use the cash for payment on a new SUV, the parents come unglued and are quite upset. They are quick to remind the children that it was "their money" to begin with and you need something more practical that costs less too. This will make the children feel guilty for making a wrong decision (i.e. the parents disapproved) and wasting their parents' hard earned savings on this new SUV they just purchased.

Parents should never do anything extra for their adult children unless they can do it with a free conscious (i.e. no strings attached). "Here is a cash gift, spend it how you want and enjoy." That would be hard for some parents to tell their children. **More simply stated, the parents need to treat their children as adults with respect for their decisions.**

Transfer of Farm Ownership Issue

Who will end up owning the business when the parents retire? Or will the parents still retain total ownership after retirement while the farming children keep doing all the work? Which children will have the chance to gain actual ownership? When will this happen? Or will the parents retain ownership until death? What share of the business can they own? Can the in-laws in the family be actual owners of this farm?

What do the children who remained on the farm expect from the business after gaining ownership? What do the parents expect from the farm business when transferring ownership? What impact will the farm business have on this next generation of family farmers? What impact will this next generation of family farmers have on the farm business?

What entitlements do the farm children actually have in the business? Have previous promises by the parents already been made to any of the children? Will these promises be honored by the parents or have the parents changed their mind without telling anyone?

“How Much Did Your Lawyer Cost the Family Farm?” The Issue of the Non-Farming Children

As Mom and Dad work through a plan to pass the ownership of their farm onto the adult children that may be farming with them, **the most sensitive issue of the non-farming children** comes into play. **How do the parents treat all of their children fairly and equitably in their estate plan?**

This is a rather delicate issue because often times **parents have favorites among their children**. But to avoid the problems of jealousy among these children and the grudges that evolve over time, it is very important that parents block out their personal feelings of favoritism and devise an estate plan that allows for the succession of the farm to the next generation in a fair and equitable manner. This will require much thought, many hours of discussion by the parents and children, and seeking out needed professional help. Too many times these decisions are made under **time pressure** (i.e. We have to do something now.) or under **emotional stress** (i.e. Just after the death of one parent.). The key is to plan ahead and start these discussions early in the process. **It is the responsibility of the parents to initiate this estate planning process.**

Farm family operations are the most difficult to handle in terms of fairness among all the children. As the children were being raised, some children worked harder than others and may have contributed more to the parents' farming operation. Also consider that some children care more about the farm and the well being of the parents in their later years of life; while some children could care less about the farm and are only interested in how much money they may receive from the estate.

The son or daughter that returns back to the home farm and has sacrificed all these years in helping the parents to expand the farming operation has made a contribution in building net worth for the parents' estate. **This is often referred to as “sweat equity”.** They have made a contribution that the other children have not. This needs to be recognized by the parents. This son or daughter may get the first chance to buy the farm or may end up with a larger share of the final estate after both parents have passed away. The other non-farming children must understand what their brother or sister has actually contributed over time. **All the children (both farming and non-farming) should share in the parents' estate, but in a fair and equitable division.**

The parents must sit down with all their children together at one time and talk through this issue. Then allow all the children to express their feelings in an open and honest manner. Most parents try to avoid this very issue. There is too much emotion involved. **Some parents even ignore this entire issue and just assume that the children will work it out later by themselves.** This only results in a lot of bitterness and feuding among the children which can result in a family split among these brothers and sisters that can last for the next generation.

The Issue of a Fair Selling Price

If the parents decide to sell the farm (or part of the farm) to any of their children (particularly the adult children farming with them), what is a “fair selling price” for the farm property.

The largest share of the parents’ financial investment for retirement is tied up in the farming operation. Nearly all of their assets are farm related. If the parents decide to sell the farm for **“top dollar in the market”**, could the farming son or farming daughter ever afford that high of a selling price. It could mean taking on a substantial amount of debt that they will never be able to repay during their lifetime.

This presents a real problem if the farm is located near an urban area that has development potential. If the farm is ever offered for sale, many times a developer will step in and offer a price way beyond what the parents ever dreamed their farm was worth. How can a son or daughter who wants to farm ever compete in a price bidding war with that developer or even an investor wanting to buy a farm in the country for their new summer home on an acreage?

Yet on the other side of this issue, the parents cannot afford to just give their farm away or sell at the lowest bargain price. Parents can expect to live a longer retirement and will need a secure financial future for personal needs and health care for the many years ahead. Health care alone can be extremely expensive. The parents may have plans to travel extensively or spend their winters in a warmer climate. **This all requires a lot of money for their retirement.**

Working out a fair selling price for the farm that provides the parents with a secure financial retirement but at a price that the children buying the farm can afford as a feasible financial investment is certainly no easy matter. It is very important that the adult children farming with the parents have an opportunity to gain ownership of farm assets and to build their own equity. That way these children are in a position to borrow the necessary loan funds from a lender to finance the purchase of the home farm. Without an asset base established, the children have little chance of gaining the needed financing to buy their parents’ farm. Now the only way this can happen is if the parents sell their farm to the children on a personal seller contract or Deed of Trust. The parents will receive a cash payment over a period of years rather than one large sum.

The Issue of Salary or Pay for the Farming Children

Determining what is a fair wage or salary for the adult children working on the farm can be a difficult question facing the parents. What salary amount the parents feel is fair (remember they started working on their parents’ farm for nothing) and what salary amount the adult children feel they need for a reasonable standard of living may be not even be close figures to each other.

The critical problem is that the adult children need enough earnings to cover their family living expenses and still be able to save some money toward building financial equity for their future. Many times the farm is not able to financially support two families (or more). This often forces one of the spouses to take employment off the farm to earn the added income necessary for family living and to have some extra money for what they might desire.

There are also the “extras” that the adult children must consider when considering what they are actually earning. Mom and Dad may be providing their housing (rent free), paying the utilities, giving them free meat, and letting them have free use of the farm pickup or free gas for personal use. This can add up to a fairly large amount of money when taken into account. The adult children must consider what these items would cost if they had to pay for these items themselves.

If the adult children farming with the parents are being overpaid by the farm business, it is probably OK because they will eventually end up owning part or all of the farm business. However, if they are being underpaid by the farm business, they may start looking for other employment opportunities elsewhere and may eventually decide to leave the farm. Often times they see what their friends in town are earning (and the nicer things that they have). They resent being trapped on the farm with all the long hours of work and little to show for their efforts.

In determining what is a fair wage or salary, it is important to pay the adult farm children based on what work they actually do in the business or contribute to the business. Their salary should never be based on what they are expected to do or what they are assumed to be doing.

Another complicating factor is the type of work being done or contribution to the business. For example, two sons farm with Mom and Dad. One son is very involved with the crop and livestock enterprises. He puts in long hours (early morning to late nights) and works in some very unpleasant weather conditions. The other son does the farm records and spends most of his time at the computer working on financial statements. He helps out with the outside work on occasions when needed (i.e. spring planting and fall harvest). Should both sons be paid the same salary? Is their contribution to the farm business valued the same? What if one son is older and has already worked more years on the farm? Should that make a difference in their salary?

One final concern to consider. Overpaying the adult farm children for little or no work could cause problems with the farm’s hired help who are expected to perform a full day’s work every day. The hired help gets stuck with the extra work that should have been done by someone else. Yet that other person still receives a full paycheck while the hired help makes less wages even though they did more work. If this happens, don’t expect the hired help to be around very long.

What If the “What If” Actually Happens?

Summary

Most families fail to discuss the real life ‘what if’ issues in terms of farm business ownership succession. Some families pretend that these issues do not even exist or will never happen. These family issues are difficult to discuss and work through (especially when there is a lot of personal emotions and stress involved). But ignoring these issues now will only result in serious consequences and family troubles later.

It is important to have a **strategic plan for ownership succession** in place for this next generation of family farmers (i.e. the adult farming children). **Parents must have a clear vision for the future of their family farm business and then be willing to discuss their ideas with the children who plan to return back home. Do all the family members involved have this same vision?** Remember that conflict is an opportunity to find solutions and work out compromises. Never be afraid to dream and to be creative in developing your farm family succession plan for the future.

Also it is important that each family member shows that they care about the feelings of other family members as these sensitive and emotional issues are being discussed and resolved. Family relationships are important. **Keep these issues in perspective.** Farms can be replaced but families cannot. The real tragedy is that many times when working through these issues, family members become defensive or withdraw their feelings when they feel that they have not been treated fairly. Sometimes threats are made or hurtful remarks are shared with each other. The scars from this damage can last for many years.

Being a family and staying together as a family even during difficult times or stressful situations needs to be the guiding light to help families work through these discussions which relate to the ownership succession of the family farm and transfer of management control to that next generation.

FARM BUSINESS OWNERSHIP SUCCESSION PLANNING

Family Discussion Question Worksheet

1. What personal values do you associate with the importance of family farming? Why is developing a farm succession plan important to your farm family?
2. When family members farm together in a farm business operation, what most often causes the disagreements between these family members? What type of conflicts can actually spilt a farm family apart?
3. For your family to be successful in implementing a farm succession plan for the next generation, what factors and/or issues need to be discussed by all family members involved? Are there any potential problems that need to be resolved?
4. What problems or issues do you feel could impair the progress by your farm family in developing and implementing a farm succession plan for your farming operation?
5. How can your family best handle these potential problems before they become conflicts that might damage the relationships between individual family members?
6. Have Mom and Dad discussed their wishes with each for their farm estate in case of unexpected death of either spouse? Have their wishes been put in writing or even made known to any of the children? Are Mom and Dad willing to sit down with their children and share their feelings and plans for passing their farming operation onto children in their estate plan?
7. If the family is not able to resolve these issues and reach agreement, would all family members involved be willing to work with (and trust) a professional consultant to develop a business ownership plan for the succession of the family farm to the next generation of family members?